

Board of Education Agenda Item

Item: D

Date: September 22, 2004

Topic: First Review of Notice of Intended Regulatory Action (NOIRA) to Promulgate Regulations Governing Re-enrollment Plans (8 VAC 20-660-10 et seq.)

Presenter: Dr. Cynthia A. Cave, Director , Office of Student Services

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Origin:

☐ Topic presented for information only (no board action required)

☐ Board review required by

☒ State or federal law or regulation

☐ Board of Education regulation

☐ Other: _____

☒ Action requested at this meeting ☐ Action requested at future meeting: _____ (date)

Previous Review/Action:

☐ No previous board review/action

☐ Previous review/action

date _____

action _____

Background Information:

Section 22.1-17.1 of the Code establishes the responsibility of the Board of Education to promulgate regulations for the re-enrollment of children who have been in the custody of the Department of Juvenile Justice (DJJ) into the public schools as follows:

§ 22.1-17.1. Regulations for reenrollment.

The Board of Education, in cooperation with the Board of Correctional Education, shall promulgate regulations for the reenrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. Such regulations shall include the components required in a reenrollment plan and shall provide for consistency in the curricula, standards and policies between the educational programs required by this title, and those of the Board of Correctional Education.

The re-enrollment plan's purpose is to facilitate sharing of information about a student's record and the planning for placement in public schools upon release from correctional facilities, in order that educational services continue without disruption. Preparation of the re-enrollment plan relies on communication and information-

sharing among school divisions, DJJ juvenile correctional and court services units, and the Department of Correctional Education (DCE) juvenile schools (§ 16.1-293 and § 22.1-17.1 of the Code).

Subsequent to the enactment of § 22.1-17.1, the Departments of Education, Correctional Education, and Juvenile Justice developed model re-enrollment procedures and provided statewide training on re-enrollment planning. In 2000, the Department of Criminal Justice Services (DCJS) funded an evaluation of the re-enrollment process and plan by the College of William and Mary. The study included a survey of persons involved in implementation of the model plan procedures, focus groups, and interviews with parents. Recommendations from the evaluation included the need for revisions to procedures and additional staff training on the re-enrollment planning process. An interagency planning committee with representatives from DOE, DCE, DJJ, and school divisions revised the re-enrollment planning procedures and trained school divisions staff, DCE guidance counselors, transition specialists, and probation/parole officers in 2003.

The evaluation of the process provided information that was used by an interagency committee with representatives from DCE, DJJ, DOE, and school divisions in the drafting of regulations that were brought before the Board of Education in 2002. The draft regulations were authorized by the Board of Education for continuation in the promulgation requirements of the Administrative Process Act. However, the required review process was not completed within the necessary time period, and the regulations could not be brought before the Board of Education for final adoption.

Summary of Major Elements:

The Board of Education is to work in cooperation with the Board of Correctional Education to promulgate regulations for re-enrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. The purpose of these regulations is to facilitate the continuance of educational services.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education staff to proceed with the NOIRA for the regulations.

Impact on Resources:

None

Timetable for Further Review/Action:

The timelines of the Administrative Process Act will be followed.



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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	20
Virginia Administrative Code (VAC) citation	20
Regulation title	Re-enrollment in Public Schools of Children in the Custody of the Department of Juvenile Justice.
Action title	New regulation for re-enrollment planning
Document preparation date	September, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the proposed regulatory action is to implement the Code of Virginia § 22.1-17.1, which directs the Board of Education, in cooperation with the Board of Correctional Education, to promulgate regulations for the re-enrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. The re-enrollment plan facilitates the sharing of critical student educational information among school divisions and the Department of Correctional Education prior to release from a juvenile correctional center.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Authority:

COV § 22.1-17.1 The Board of Education, in cooperation with the Board of Correctional Education, shall promulgate regulations for the re-enrollment in the public school of children who have been in custody of the Department of Juvenile Justice. Such regulations shall include the components required in a re-enrollment plan and shall provide for consistency in the curricula, standards and policies between educational programs required by this title, and those of the Board of Correctional Education.

COV § 22.1-343.5 The Board of Correctional Education shall have the following powers and duties: To promulgate regulations, in cooperation with the Board of Education, for the re-enrollment in the public schools of students who have been in the custody of the Department of Juvenile Justice.

COV § 16.1-293 The local supervising agency, with the assistance of representatives of the Department of Correctional Education, the relevant local school division, and the juvenile correctional center counselor, shall develop a re-enrollment plan in accordance with § 22.1-1-17.1, for each child of compulsory school attendance age, or a child with disabilities who has been identified as eligible for special education pursuant to § 22.1-213. Prior to the juvenile's discharge from a juvenile correctional center, the re-enrollment plan shall be made final and the school board of the local school division in which the juvenile shall be enrolled, shall determine the appropriate alternative education placement for such juvenile.

A re-enrollment plan must be completed by court service staff for each juvenile committed to the Department of Juvenile Justice. In accordance with COV § 16.1-293, the student's probation officer will, within 48 hours of commitment, send a request for information to the local school division where the student was last enrolled.

The local school division shall identify a court-school liaison. Local court service unit probation officers shall forward the request for information to this person. The local school division will complete a portion of the re-enrollment form and forward the student's scholastic records to the Reception and Diagnostic Center of the Department of Correctional Education within five (5) days of receipt.

The Department of Juvenile Justice shall inform the school division of a juvenile's return to the community from commitment at least 14 days prior to release. The local school board and the local school superintendent are the final authorities on the student's public school enrollment, placement, and re-enrollment.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The Board of Education is charged with promulgating regulations for the re-enrollment into the public schools of children who have been in the custody of the Department of Juvenile Justice (COV § 22.1-17.1).

The General Assembly established the requirement for regulations in response to a study regarding the transfer of students between public schools, detention homes and juvenile correctional centers. This study recommended establishment of a re-enrollment plan to share information about the student's public

and correctional education and to facilitate the student's re-enrollment in public schools upon release from commitment.

The Departments of Education, Correctional Education, and Juvenile Justice have developed a model re-enrollment plan and provided state-wide training on that plan. Faculty at the College of William and Mary, under a grant from the Department of Criminal Justice Services, completed a study of the re-enrollment plan and process which informed the revision of the planning procedures and will also inform the drafting of the regulations.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There are no specific alternatives to the proposal; however, an interagency committee, consisting of representatives from the Department of Correctional Education, Department of Juvenile Justice, Department of Education and the local school divisions, was established to revise the existing re-enrollment plan and to inform promulgation of the regulations.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability. These regulations would support the planned transition of a juvenile from the correctional education system back to the public school education system. The regulations should provide guidance to the participating agencies, students, and the families of students. Families would have a reference for the planning and coordination that should take place as part of the re-enrollment process.

The regulation will have a positive impact on the family since they address the continuance of the education of a child upon release from a juvenile correctional center. It would strengthen the rights of parents in regards to the continuation of educational opportunities for their children upon release.

Parents have been faced with the challenges of enrollment difficulties due to records not being received by either the receiving school division or the correctional center. This circumstance would often delay students from receiving the appropriate educational services in the public school. It is crucial that students are involved in an appropriate educational program while in the correctional center, and upon release. The incidence of recidivism becomes greater when enrollment is not available soon after release.

The regulation would provide for the exchange of educational information from the court services to the school division to the correctional centers. By having information in a timely manner, correctional centers would be able to provide appropriate educational services. The re-enrollment plan would provide the local school division with educational records so that informed decisions regarding placement and enrollment of the student would be made prior to release.